

JEFFREY A. SILVESTRI, ESQ.
Nevada Bar No. 5779
JOSEPHINE BINETTI McPEAK, ESQ.
Nevada Bar No. 7994
McDONALD CARANO WILSON LLP
2300 West Sahara Avenue
No. 10, Suite 1000
Las Vegas, Nevada 89102
Telephone: (702) 873-4100
Fax: (702) 873-9966
Attorneys for Plaintiff

Additional Counsel For
Plaintiff Philip Morris USA Inc listed on signature page

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

PHILIP MORRIS USA INC.,

Plaintiff,

vs.

CASE NO. _____

COMPLAINT FOR:

- (1) VIOLATIONS OF THE LANHAM ACT -- § 32 (15 U.S.C. § 1114);**
- (2) VIOLATIONS OF THE LANHAM ACT -- § 43(a) (15 U.S.C. § 1125(a));**
- (3) NEVADA COMMON LAW UNFAIR COMPETITION AND TRADEMARK INFRINGEMENT**

AMERICAN MINI MARKET INC., a Nevada corporation doing business as AMERICAN MINI MARKET; ARCH DRUG & SPORTING GOODS, INC., a Nevada corporation doing business as ARCH LIQUORS; CECILIA PACHECO, individually and doing business as MERCADO LOS PAISANOS; ENRIQUE MATA, individually and doing business as CARNICERIA EL MEXICANO; GERARDO VARELA, individually and doing business as CARNICERIA GUADALAJARA; HOA VAN LE, individually and doing business as SUNSHINE MARKET; IVY ALBANA, individually and doing business as MONTEREY MARKET; SALVADOR ALBANA, individually and doing business as MONTEREY MARKET; LA FERIA, L.L.C., a Nevada corporation doing business as LA FERIA;

1 LENARD LOPER, individually and doing business
 2 as RAINBOW MARKET #3; M AND H TRADING,
 3 INC., a Nevada corporation doing business as M & H
 4 TRADING DISCOUNT FOOD MART; MARIA'S
 5 MARKET, an unknown business entity; MARK
 6 SCHNIPPEL, individually and doing business as
 7 EXPRESS MART 2; MARTIN AVILA, individually
 8 and doing business as THE ONE STOP; ROSENDO
 9 NUNEZ, individually and doing business as LOS
 10 ALAMITOS; SALVADOR AYALA, individually
 11 and doing business as ROSITAS MARKET;
 12 ROSITAS MARKET INCORPORATED, a Nevada
 13 corporation doing business as ROSITAS MARKET;
 14 SARA SEGURA, individually and doing business as
 15 LA CUSCATLECA; and DOES ONE through
 16 TWENTY, inclusive,

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 Defendants.

1 Plaintiff PHILIP MORRIS USA INC. ("Philip Morris USA"), for its complaint herein
 2 against all entities as set forth on Exhibit A (collectively "Defendants"), attached hereto and
 3 incorporated by reference, alleges as follows:

4 JURISDICTION AND VENUE

5 1. This Court has jurisdiction over this action pursuant to: (i) 28 U.S.C. §§ 1331,
 6 1338(a) and (b); (ii) 15 U.S.C. § 1121, as an action for violation of the Lanham Act, 15 U.S.C. §§
 7 1051, et seq.; and (iii) 28 U.S.C. § 1367(a), pursuant to the principles of supplemental jurisdiction.

8 2. Philip Morris USA is informed and believes and thereupon alleges that venue is
 9 proper in this district pursuant to 28 U.S.C. § 1391(b) in that, among other things, Defendants
 10 reside or are found in this judicial district and a substantial part of the events or omissions giving
 11 rise to the claims herein occurred in this judicial district.

12 NATURE OF THE ACTION

13 3. This is an action for: (i) infringement of registered trademarks in violation of
 14 Section 32 of the Lanham Act, 15 U.S.C. § 1114; (ii) false designation of origin and trademark and

1 trade dress infringement in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); and
 2 (iii) unfair competition and trademark infringement in violation of the common law of the State of
 3 Nevada. As described more fully below, Defendants have sold, offered for sale, or otherwise
 4 contributed to the sale of counterfeit MARLBORO® and/or MARLBORO LIGHTS® brand
 5 cigarettes, and are therefore liable for direct and/or contributory infringement of Philip Morris
 6 USA's lawfully owned trademarks and trade dress. Defendants' conduct has produced and, unless
 7 enjoined by this Court, will continue to produce widespread consumer confusion and deception as
 8 well as irreparable injury to Philip Morris USA.

10 4. For several decades, Philip Morris USA has used, in connection with its tobacco
 11 products, the MARLBORO® mark and various other trademarks incorporating the word
 12 MARLBORO® and/or the MARLBORO Roof Design Label® mark, a pentagonal figure with a
 13 horizontal top and two vertical sides with two upwardly and inwardly sloping diagonals
 14 (collectively, the "Marlboro Marks"). Philip Morris USA has spent substantial time, effort and
 15 money advertising and promoting the Marlboro Marks throughout the United States, and these
 16 marks have consequently developed significant goodwill, have become distinctive, and have
 17 acquired secondary meaning.

19 5. In a blatant attempt to profit from Philip Morris USA's substantial investment in its
 20 Marlboro Marks, Defendants have sold cigarettes in packaging that bears spurious marks that are
 21 either identical with or substantially indistinguishable from the Marlboro Marks. Consumers
 22 naturally would expect that cigarettes sold in packaging that bears the famous Marlboro Marks
 23 would be manufactured or licensed or sponsored by, or affiliated with, Philip Morris USA.
 24 However, Philip Morris USA has confirmed that the cigarettes at issue were not manufactured
 25 licensed or sponsored by Philip Morris USA and are counterfeit. Thus, consumers will be confused
 26 and/or disappointed by the differences between the counterfeit cigarettes and the genuine
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1 MARLBORO® and/or MARLBORO LIGHTS® cigarettes manufactured and sold by Philip Morris
2 USA or its affiliates.

3 6. As a result of Defendants' actions, Philip Morris USA is suffering a loss of the
4 enormous goodwill Philip Morris USA created in its MARLBORO® and/or MARLBORO
5 LIGHTS® products and is losing profits from lost sales of genuine products. This action seeks
6 permanent injunctive relief and damages for Defendants' infringement of Philip Morris USA's
7 intellectual property rights.
8

9 THE PARTIES

10 7. Plaintiff Philip Morris USA is a corporation organized and existing under the laws of
11 the Commonwealth of Virginia with its principal place of business at 6601 West Broad Street,
12 Richmond, Virginia 23230.

13 8. Defendants' names, entity types and addresses are set forth in Exhibit A, attached
14 hereto and incorporated herein by reference.

15 9. Philip Morris USA does not know the true names and capacities of the Defendants
16 sued herein as Does One through Twenty inclusive, and therefore sues these Defendants by such
17 fictitious names. Philip Morris USA will amend this Complaint to allege the true names and
18 capacities of these Defendants when it ascertains the same.
19

20 FACTS GIVING RISE TO THE ACTION

21 A. The Sale of Counterfeit Cigarettes

22 10. Philip Morris USA manufactures cigarettes, including the famous MARLBORO®
23 brand, for sale in the United States. Retail establishments throughout the United States offer these
24 cigarettes for sale to the adult public.
25

26 11. Between December 2004 and February 2005, an investigator under contract with
27 Philip Morris USA purchased one or more packs (20 cigarettes per pack) of cigarettes bearing the
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1 MARLBORO® and/or MARLBORO LIGHTS® marks, from each of the named Defendants' retail
2 establishments. The dates of these purchases are listed in Exhibit A, attached hereto.

3 12. The investigators delivered the purchased packs of cigarettes to a Philip Morris USA
4 facility. Philip Morris USA personnel then examined the cigarette packs using a series of
5 proprietary inspection methods and conclusively determined one or more of the packs purchased
6 from each of these Defendants' retail establishments was counterfeit.
7

8 **B. The Likelihood of Confusion and Injury Caused by Defendants' Actions**

9 13. Counterfeit MARLBORO® and/or MARLBORO LIGHTS® brand cigarettes are
10 not the same or of the same quality as those manufactured and sold by Philip Morris USA under the
11 same brand name. As such, consumers who purchase counterfeit MARLBORO® and/or
12 MARLBORO LIGHTS® brand cigarettes likely will be confused and/or disappointed by the
13 differences between the counterfeit cigarettes and the genuine MARLBORO® and/or
14 MARLBORO LIGHTS® brand cigarettes. In addition, the sale of counterfeit MARLBORO®
15 and/or MARLBORO LIGHTS® brand cigarettes is likely to cause confusion among consumers
16 regarding Philip Morris USA's sponsorship or approval of the counterfeit cigarettes. As a result of
17 Defendants' actions, Philip Morris USA is suffering a loss of the enormous goodwill Philip Morris
18 USA created in its MARLBORO® products and is losing profits from lost sales of genuine
19 products.
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22 **C. The Infringed Trademarks**

23 14. Philip Morris USA is the United States owner of the famous Marlboro Marks under
24 which the MARLBORO® cigarettes are sold and are among the most valuable trademarks in the
25 world. The "Marlboro Marks" include, without limitation, MARLBORO® and MARLBORO
26 LIGHTS®. Philip Morris USA has invested substantial time, effort and money in advertising and
27 promoting the Marlboro Marks throughout the United States. The vast majority of MARLBORO®
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1 advertising and promotional activities display the Roof Design label mark and/or a MARLBORO®
 2 word mark. As a result, the Marlboro Marks are reportedly among the most widely recognized
 3 trademarks in the United States, and Philip Morris USA has developed significant goodwill in these
 4 marks

5
 6 15. Philip Morris USA is the registered owner of the following trademarks on the
 7 Principal Register of the United States Patent and Trademark Office ("USPTO"), all of which are
 8 valid, subsisting and incontestable pursuant to 15 U.S.C. § 1065:

Registration Number	Registration Date	Trademark
68,502	April 14, 1908	MARLBORO
938,510	July 25, 1972	MARLBORO Red Label
1,039,412	May 11, 1976	MARLBORO LIGHTS
1,039,413	May 11, 1976	MARLBORO LIGHTS Label

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 15 True and correct copies of these registration certificates and/or computer printouts from the records
 16 of the USPTO are attached hereto as Exhibits B through E.

17
 18 16. Defendants threaten to continue to commit the acts complained of herein, and unless
 19 restrained and enjoined, will continue to do so, all to Philip Morris USA's irreparable damage.

20 **FIRST CLAIM FOR RELIEF**

21 **(For Infringement of Registered Trademarks in Violation of Section 32 of the Lanham Act, 15**
 22 **U.S.C. § 1114(1))**

23 17. Philip Morris USA specifically realleges and incorporates herein by reference each
 24 and every allegation contained in Paragraphs 1 through 16 hereof.

25 18. The acts of Defendants alleged herein constitute the use in commerce, without the
 26 consent of Philip Morris USA, of a reproduction, counterfeit, copy or colorable imitation of one or
 27 more of the Marlboro Marks in connection with the sale, offering for sale, distribution, or
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1 advertising of goods, which use is likely to cause confusion or mistake, or to deceive consumers
 2 and therefore infringe Philip Morris USA's rights in one or more of the Marlboro Marks, in
 3 violation of Section 32(1) of the Lanham Act, 15 U.S.C. Section 1114(1).

4 19. Philip Morris USA has no adequate remedy at law for the foregoing wrongful
 5 conduct. Philip Morris USA has been, and absent injunctive relief will continue to be, irreparably
 6 harmed by Defendants' actions.
 7

8 **SECOND CLAIM FOR RELIEF**
 9 **(For False Designation of Origin and Trademark and Trade Dress Infringement in Violation**
 10 **of Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A))**

11 20. Philip Morris USA specifically realleges and incorporates herein by reference each
 12 and every allegation contained in paragraphs 1 through 19 hereof.

13 21. The acts of Defendants alleged herein constitute the use in interstate commerce of a
 14 word, term, name, symbol, or device, or any combination thereof, or false designation of origin, in
 15 connection with the sale, or offering for sale, of goods in violation of section 43(a)(1)(A) of the
 16 Lanham Act, 15 U.S.C. § 1125(a)(1)(A). These acts of Defendants are likely to cause confusion, or
 17 to cause mistake, or to deceive as to the affiliation, connection or association of Defendants with
 18 Philip Morris USA, or as to the origin, sponsorship or approval of counterfeit cigarettes by Philip
 19 Morris USA.
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21 22. Philip Morris USA has no adequate remedy at law for the foregoing wrongful
 22 conduct. Philip Morris USA has been, and absent injunctive relief will continue to be, irreparably
 23 harmed by Defendants' actions.

24 **THIRD CLAIM FOR RELIEF**
 25 **(For Unfair Competition in Violation of Nevada State Common Law)**

26 23. Philip Morris USA specifically realleges and incorporates herein by reference each
 27 and every allegation contained in paragraphs 1 through 22 hereof.
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24. Defendants' conduct, as alleged above, constitutes unfair competition under Nevada State common law. Defendants' acts have resulted in the "passing off" of Defendants' products as those of Philip Morris USA, or as somehow related or associated with, or sponsored or endorsed by, Philip Morris USA.

25. Philip Morris USA has no adequate remedy at law for the foregoing wrongful conduct. Philip Morris USA has been, and absent injunctive relief will continue to be, irreparably harmed by Defendants' actions.

WHEREFORE, Plaintiff Philip Morris USA Inc. prays for judgment as follows:

A. For judgment that:

- (i) Defendants have violated Section 32 of the Lanham Act, 15 U.S.C. § 1114;
- (ii) Defendants have violated Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); and
- (iii) Defendants engaged in unfair competition in violation of the common law of the State of Nevada.

B. For an injunction restraining and enjoining Defendants and their divisions, subsidiaries, officers, agents, employees and attorneys, and all those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from (i) purchasing, distributing, selling, or offering for sale, counterfeit MARLBORO® and/or MARLBORO LIGHTS® brand cigarettes; or (ii) using the Marlboro Marks or trademarks confusingly similar therewith or the MARLBORO® and/or MARLBORO LIGHTS® trade dress or trade dress confusingly similar therewith with the exception of the sale and, offering for sale of genuine MARLBORO® and/or MARLBORO LIGHTS® cigarettes.

C. For an order (i) requiring Defendants to account for and pay over to Philip Morris USA all of Defendants' profits derived from their unlawful conduct, to the full extent provided for

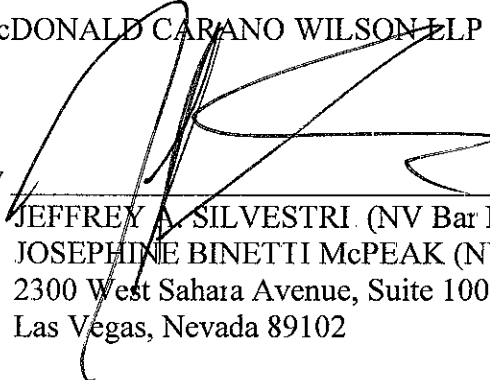
1 by Section 35(a) of the Lanham Act, 15 U.S.C. Section 1117(a), including treble damages where
 2 appropriate; (ii) as an alternative to awarding profits under Sections 35(a), awarding Philip Morris
 3 USA statutory damages as provided for by Section 35(c) of the Lanham Act, 15 U.S.C. § 1117(c);
 4 and (iii) awarding Philip Morris USA general and special damages to the full extent provided for by
 5 the common law of the State of Nevada
 6

7 D. For costs of suit, including attorneys fees where appropriate, and for such other and
 8 further relief as the Court shall deem appropriate.

9 Dated this 19th day of January, 2006.

10 McDONALD CARANO WILSON LLP

11 By

12 
 13 JEFFREY A. SILVESTRI (NV Bar No. 5779)
 14 JOSEPHINE BINETTI McPEAK (NV Bar No. 7994)
 15 2300 West Sahara Avenue, Suite 1000
 16 Las Vegas, Nevada 89102

17 John C. Ulin (CA State Bar No. 165524) (*pro hac vice pending*)
 18 Patricia K. Oliver (CA State Bar No. 193423) (*pro hac vice pending*)
 19 HELLER EHRMAN LLP
 20 333 South Hope Street, 39th Floor
 21 Los Angeles, CA 90071
 22 Telephone: (213) 689-0200
 23 Facsimile: (213) 614-1868
 24 *Attorneys for Plaintiff*

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EXHIBIT A

EXHIBIT A

DEF. NO.	STORE NAME	ADDRESS	CITY	STATE	ZIP	OWNER(S)	BUY DATE
1	AMERICAN MINI MARKET	2564 LAS VEGAS BOULEVARD #N	NORTH LAS VEGAS	NV	89030	AMERICAN MINI MARKET INC.	12/02/2004
2	ARCH LIQUORS	235 VIRGINIA STREET	RENO	NV	89501	ARCH DRUG & SPORTING GOODS, INC.	02/22/2005
3	CARNICERIA EL MEXICANO	2510 E. LAKE MEAD BOULEVARD #C	NORTH LAS VEGAS	NV	89030	ENRIQUA MATA	12/15/2004
4	CARNICERIA GUADALAJARA	2162 N. LAMB BOULEVARD #C-D	LAS VEGAS	NV	89115	GERARDO VARELA	12/02/2004
5	EXPRESS MART 2	5075 E. WASHINGTON AVENUE	LAS VEGAS	NV	89110	MARK SCHNIPPEL	12/01/2004
6	LA CUSCATLECA	1909 E. CHARLESTON BOULEVARD	LAS VEGAS	NV	89104	SARA SEGURA	12/10/2004
7	LA FERIA	3851 PENNWOOD AVENUE #B24	LAS VEGAS	NV	89102	LA FERIA, L.L.C.	12/18/2004
8	LOS ALAMITOS	2784 E. CHARLESTON	LAS VEGAS	NV	89104	ROSENDO NUNEZ	12/10/2004
9	M & H TRADING DISCOUNT FOOD MART	235 N. EASTERN AVENUE #27	LAS VEGAS	NV	89101	M AND H TRADING, INC.	12/06/2004
10	MARIAS MARKET	2500 E. CHEYENNE AVENUE	NORTH LAS VEGAS	NV	89030	UBE	12/06/2004
11	MERCADO LOS PAISANOS	3131 N. RANCHO DRIVE #B	LAS VEGAS	NV	89130	CECILIA PACHECO	12/16/2004
12	MONTEREY MARKET	1000 E. CHARLESTON BOULEVARD #10	LAS VEGAS	NV	89104	IVY ALBANA SALVADOR ALBANA	12/16/2004
13	RAINBOW MARKET #3	1594 N. NELLIS BOULEVARD	LAS VEGAS	NV	89110	LENARD LOPEZ	12/01/2004
14	ROSITAS MARKET	1514 S. MAIN STREET	LAS VEGAS	NV	89104	SALVADOR AYALA	12/07/2004
15	SUNSHINE MARKET	861 N. NELLIS BOULEVARD #1	LAS VEGAS	NV	89110	HOA VAN LE	12/02/2004
16	THE ONE STOP	1701 STATE HIGHWAY 168	MOAPA	NV	89025	MARTIN AVILA	12/18/2004

EXHIBIT B

BEST AVAILABLE COPY

TRADE-MARK.

No. 68,502.

REGISTERED APR. 14, 1908.

PHILIP MORRIS & CO., LTD.
CIGARETTES.

APPLICATION FILED OCT 13, 1907

MARLBORO

Proprietor
Philip Morris & Co., Ltd.
By Gilbert H. Decker
Attorney

REPUBLISHED

Under Sec. 12 (c) 1946 Act MAR 22 1948

AFFIDAVIT SEC. 8
ACCEPTEDAFFIDAVIT SEC. 15
RECEIVED 3-30-54

68,502. CIGARETTES. Registered April 14, 1908.
Philip Morris & Co. Ltd. Renewed April 14, 1928, to
Philip Morris & Co. Ltd. Incorporated, New York, N. Y.,
a Corporation of Virginia assignee.

68,502. MARKED. Registered Apr. 14, 1908. Philip
Morris & Co. Ltd. Renewed Apr. 14, 1928, to Philip
Morris & Co. Ltd. Incorporated, New York, N. Y., a cor-
poration of Virginia. CIGARETTES. Class 17.

THIRD RENEWAL

Philip Morris Inc.
New York, N. Y.

UNITED STATES PATENT OFFICE.

PHILIP MORRIS & CO., LTD. OF NEW YORK, N. Y.

TRADE-MARK FOR CIGARETTES.

No. 68,502.

Statement and Declaration.

Registered April 14, 1908.

Application filed October 17, 1907. Serial No. 30,646.

STATEMENT.*To all whom it may concern:*

Be it known that PHILIP MORRIS & CO., Ltd., a corporation duly organized under the laws of the State of New York, and located in the city of New York, county of New York, in said State, and doing business at 402 West Broadway, in said city, has adopted for its use the trade-mark shown in the accompanying drawing, for cigarettes, in Class 17. Tobacco products.

The trade-mark has been continuously

used in the business of said corporation and in the business of its predecessor, Philip Morris & Co. Ltd., of London, England, since 1883.

The trade-mark is applied or affixed to the goods, or to the packages containing the same, by placing thereon a printed label on which the trade-mark is shown.

PHILIP MORRIS & CO., LTD.
By HERBERT L. ALDRICH

*President.***DECLARATION.**

State of New York county of New York ss:

HERBERT L. ALDRICH, being duly sworn, deposes and says that he is the president of the corporation, the applicant named in the foregoing statement; that he believes the foregoing statement is true; that he believes said corporation is the owner of the trade-mark sought to be registered; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use said trade-mark, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that said mark is used by said corporation in commerce among the several States of the United States; that the drawing present-

ed truly represents the trade-mark sought to be registered; that the specimens show the trade-mark as actually used upon the goods; and that the mark has been in actual use as a trade-mark of the applicant for ten years next preceding the passage of the act of February 20, 1905, and that, to the best of his knowledge and belief, such use has been exclusive.

HERBERT L. ALDRICH.

Subscribed and sworn to before me this
10th day of January, 1908.

DAVID FISHER

Notary Public, 127, Kings County
Certificate filed in New York County

Latest Status Info

Page 1 of 2

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 09/03/2002 12:30:34 ET

Serial Number: 71030646

Registration Number: 68502

Mark

Marlboro

(words only): MARLBORO

Current Status: This registration has been renewed.

Date of Status: 1988-11-07

Filing Date: 1907-10-17

Registration Date: 1908-04-14

Law Office Assigned: Unknown

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at Trademark Assistance Center.
mailto:TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -Unknown

Date In Location: 2001-10-18

CURRENT APPLICANT(S)/OWNER(S)

1. PHILIP MORRIS INCORPORATED

Address:

PHILIP MORRIS INCORPORATED
100 PARK AVENUE
NEW YORK, NY 10017
United States

State or Country of Incorporation: Virginia

Legal Entity Type: Corporation

Latest Status Info

Page 2 of 2

GOODS AND/OR SERVICES

CIGARETTES

U.S. Class: 017 (International Class 034)

First Use Date: 18830000

First Use in Commerce Date: 18830000

Basis: 1(a)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

1988-04-14 - Registration renewed - 20 year

1988-04-08 - Section 9 filed/check record for Section 8

1968-04-14 - Registration renewed - 20 year

CONTACT INFORMATION

Correspondent (Owner)

ROBERT J. ECK

PHILIP MORRIS INCORPORATED

100 PARK AVENUE

NEW YORK, NY 10017

United States

EXHIBIT C

United States Patent Office

938,510

Registered July 25, 1972

PRINCIPAL REGISTER Trademark

Ser. No. 387,884, filed Mar 30, 1971



Philip Morris Incorporated (Virginia corporation)
100 Park Ave
New York, N.Y. 10017

For: CIGARETTES, in CLASS 17 (INT. CL. 34).
First use 1883; in commerce 1883.
Applicant disclaims the words "Filter Cigarettes" apart
from the mark as shown.
The drawing is lined to indicate the colors red and gold
and these colors are used and claimed as a feature of the
mark.
Owner of Reg. Nos. 68,502, 854,007, and others

EXHIBIT D

Int. Cl.: 34

Prior U.S. CL: 17

United States Patent Office

Reg. No. 1,039,412

Registered May 11, 1976

TRADEMARK

Principal Register

MARLBORO LIGHTS

Philip Morris Incorporated (Virginia corporation)
100 Park Ave.
New York, N.Y. 10017

For: CIGARETTES, in CLASS 17 (INT. CL. 34).
First use Aug. 25, 1971; in commerce Aug. 25, 1971.
The word "Lights" is expressly disclaimed apart from
the mark in its entirety.
Owner of Reg. Nos. 68,502, 878,062, and others.
Ser. No. 401,870, filed Sept. 2, 1971.

EXHIBIT E

Int. Cl.: 34

Prior U.S. Cl.: 17

United States Patent Office

Reg. No. 1,039,413

Registered May 11, 1976

TRADEMARK
Principal Register



Philip Morris Incorporated (Virginia corporation)
100 Park Ave.
New York, N.Y. 10017

For: CIGARETTES, in CLASS 17 (INT. CL. 34).
First use not later than Sept. 2, 1971; in commerce not later than Sept. 2, 1971.

The word "Lights" is expressly disclaimed apart from the mark in its entirety.

The words "Veni-Vidi-Vici" are Latin and mean "I came, I saw, I conquered."

Owner of Reg. Nos. 68,502, 760,533, and others.

Ser. No. 430,002, filed July 17, 1972.